IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CV-938-BO

MAHMOUD OMAR ZUGHBI,)
)
    Plaintiff,)
)
v.)   O R D E R
)
TOWN OF SHARPSBURG, *et al.*,)
)
    Defendants.)

This cause comes before the Court on a motion by defendant Sharpsburg Police

Department to dismiss pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil

Procedure. Plaintiff has failed to respond to the motion and the matter is ripe for ruling.

BACKGROUND

Plaintiff filed this action alleging that he was discriminated against on account of his

race, color, religion, and national origin during his employment as a police officer for the Town

of Sharpsburg, North Carolina. Plaintiff has named as defendants his former employer, the

Town of Sharpsburg; three individuals; and the Sharpsburg Police Department.

DISCUSSION

Defendant Sharpsburg Police Department correctly contends that it not a legal entity and

is thus not a proper defendant in this action. "Unless a statute provides to the contrary, only

persons in being may be sued. In North Carolina there is no statute authorizing suit against a

police department. The Police Department is a component part[] of defendant City . . . and as

such lack[s] the capacity to be sued." *Coleman v. Cooper*, 89 N.C. App. 188, 192 (1988)

(internal citations omitted); *see also Moore v. City of Asheville*, 290 F. Supp. 2d 664, 673

(W.D.N.C. 2003), *aff'd*, 396 F.3d 385 (4th Cir. 2005) (dismissing claims against city police department for lack of capacity to be sued); *Wilson v. Fayetteville Police Dep't*, No. 5:13-CV-178-BO, 2014 WL 555663, at *1 (E.D.N.C. Feb. 11, 2014) ("Courts have routinely found that lawsuits brought against municipal police departments are not authorized.") (listing cases).

<div align="center">CONCLUSION</div>

Accordingly, for the foregoing reasons and without opposition by plaintiff, defendant Sharpsburg Police Department's motion to dismiss [DE 28] is GRANTED.

SO ORDERED, this 13 day of April, 2017.

TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE